



## LEGAL AID SOCIETY OF DAYTON, INC.

333 WEST FIRST STREET • SUITE 500 • DAYTON, OHIO 45402-3031 • PHONE (513) 228-8088  
TDD (513) 449-8125 • FAX (513) 449-8131

GARY J. WESTON  
Executive Director

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May 6, 1996

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FCC MAIL ROOM

Office of the Secretary  
Federal Communication Commission  
Washington, D.C. 20554

Dear Sir/Madam:

RE: In the Matter of: Federal-State Joint Board on Universal Service  
FCC-96-93; CC Docket No. 96-45

I have enclosed the original and seven copies of the Reply Comments of The Edgemont Neighborhood Coalition, Dayton, Ohio our office has prepared for filing in reference to the above action. Please return the extra time-stamped copies to our office in the enclosed self-addressed stamped envelope.

Yours,

Ellis Jacobs  
Council for the  
Edgemont Neighborhood Coalition

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Enclosures

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MAY 7 1996

BEFORE THE FEDERAL COMMUNICATION COMMISSION  
WASHINGTON, D.C. 20554

FCC MAIL ROOM

IN THE MATTER OF :

FEDERAL-STATE JOINT BOARD : CC DOCKET NO. 96-45  
ON UNIVERSAL SERVICE

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**REPLY COMMENTS OF THE EDMONT NEIGHBORHOOD  
COALITION, DAYTON, OHIO**

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## **I. Introduction**

Pursuant to the Commission's *Notice* and *Order* dated March 8, 1996 numerous parties filed Initial Comments in this docket. Those parties included: The Office of Communication of the United Church of Christ, et. al. (UCC), People for the American Way, et. al. (People for the American Way), The Office of the Ohio Consumers' Counsel (OCC), the National Black Caucus of State Legislators Telecommunication and Energy Committee (National Black Caucus), Citizens for a Sound Economy Foundation (Economy Foundation), the Competitive Telecommunications Association (Comptel), the National Association of Regulatory Utility Commissioners (NARUC), the Communication Workers of America (CWA), the Alliance for Public Technology (APT), the Staff of the Public Utilities Commission of Ohio (PUCO Staff), the Benton Foundation (Benton), American Association of Retired Persons, et. al. (AARP), and the Public Utility Law Project of New York, Inc. (PULP).

The Edgemont Neighborhood Coalition (Edgemont) files these *Reply Comments* in response to the Initial Comments filed by these and other parties.

## **II. Reply Comments**

### **A. Universal Service is for all Americans.**

Targeted assistance for specific groups is only part of the Act's universal service mandate. Edgemont agrees with the United Church of Christ that the mandate extends to all Americans and requires quality services at just, reasonable and affordable rates for all. 254(b)(1), 254(e). Failure to implement this broad mandate will result in rising rates for average Americans, *AARP* at 3, and will ultimately undermine political support for targeted assistance. *UCC* at 8.

Indeed it would be the ultimate irony if, under the Act, "securing the benefits of competition" resulted in rate increases for ordinary residential customers. *NARUC* at 16.

Edgemont agrees with AARP that congress implicitly rejected the notion that telecommunication services should always be priced at the highest price the market can bear by enacting 254(b)(1) and 254(I). *AARP* at 13. If anything, rates should decline, given declining industry costs. *OCC* at 11. AARP has computed that local loop costs have dropped 7% per year for the last ten years. *AARP* at 17. In Ohio, current rates are producing astronomical returns for many LEC's. *OCC* at 9.

Implicit support mechanisms should not be eliminated where they will raise residential rates until there is effective competition. The Act calls for explicit mechanisms but does not require an immediate change. *UCC* at 5.

For instance, allowing the SLC to rise would push core residential rates in the wrong direction and would likely have an unfavorable impact on universal service. *NARUC* at 5. All providers which use the local loop should contribute to the cost of the loop. If the CCLC is an imperfect mechanism then it should be adjusted. *OCC* at 20, *NARUC* at 17. But to eliminate IXC contributions to the loop or to increase end user contributions would violate 254(k).

**B. Affordability**

By adding affordability to the traditional “just and reasonable” standard Congress has created a multifaceted rate test. Rates which are just and reasonable could still be unaffordable.

Both the relative and absolute definitions of “affordable” must be given substance. *AARP* at 6. Edgemont agrees with AARP, PULP, and People for the American Way, that subscribership levels are not a suitable indicator of how affordable telephone rates are because phone service is a necessity and families will sacrifice other needs to keep it.

Each individual universal service and the bundle of core universal services together need to be affordable.

**C. Which Services?**

A number of those filing comments, including Edgemont, have advocated including flat-rate rate service among the universal services. *PUCO Staff* at 4, *OCC* at 13, *People for the American Way* at 11, *AARP* at 9. This is essential. Access without affordable usage is meaningless.

Several other commentators expressed concern that advanced services, which are to be made available to all Americans pursuant to 254(b)(3) and 706, might not qualify for universal service support. *UCC* at 8, *APT* at 4. By definition “advanced” services will not be subscribed to by a substantial majority, nonetheless, they should qualify for subsidy if they sufficiently satisfy the other 254(c) criteria.

Elective services which allow customers to control their usage should be available and

affordable (call blocking, limiting) but if those services become mandatory they will erect a whole new set of barriers to universal service. For example, prepayment of long distance could be an excellent tool for controlling usage if elected by a customer. If required by a company, however, it will become a tool of exclusion.

The United Church of Christ and Benton both recognize the need to provide access to the equipment which will allow low-income communities access to the Internet *UCC* at 11, *Benton* at 4. Edgemont has advocated for neighborhood based access to the Internet, as the appropriate transitional approach. *Edgemont's Initial Comments* at 13. Edgemont agrees with People for the American Way, however, that institutional access should not become an excuse for denying residential access. *People for the American Way* at iii. Edgemont also supports the United Church of Christ call for a user subsidy in the form of equipment credits to appear on the billing statement of providers requiring special access devices. *UCC* at 11.

Low-income programs should be available to those on public assistance and those living below 150% of poverty. The poverty line is set so low that it is necessary to include those above it in order to serve those in need. Also, merely tying eligibility to public benefits would subject low-income universal assistance to the same political pressures which periodically ensnare those programs. Universal Assistance, with its focus on improving value to each by including all, should be insulated from those pressures. 150% of poverty is a reasonable level and is already used in successful programs like LIHEAP.

Low-income programs need to be actively promoted. Automatic sign-up programs like the program described by PULP should be encouraged, facilitated and the administrative cost of such programs should be funded. *PULP* at 15.

In addition, deposits and connection charges should be removed. Comptel's claim that those without deposits are more likely to fail to pay long distance charges does not necessarily demonstrate causation. At any rate, it is not born out by the experience in Ohio where participants in the States's TSA program generally have disconnection rates similar to the general customer base.<sup>1</sup>

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<sup>1</sup> The Public Utilities Commission of Ohio, *Report to the Ohio General Assembly, Telephone Service Assistance Hotline Program*, January 1, 1995 at 7.

**D. Unbundled Consequences.**

Edgemont agrees with the United Church of Christ NARUC, OCC and PULP, that users should be able to subscribe to a bundle of core services the provision of which should not be tied to payment for any other service.

All studies of telephone penetration indicate that inability to pay long distance bills is the primary disconnection culprit. Indeed, the New York experience of rapid growth in the number of access lines, in part attributed to an unbundled disconnection policy, shows that unbundling consequences can result in a win/win for companies and customers alike. *PULP* at 16.

The special billing and collection practices which were granted to the telephone industry as the result of past technological limitations should not continue. In an era where services are being unbundled into resellable components and telecommunication is joining the competitive market it is time to return billing and collection practices in this industry to normal business procedures.

In the marketplace, customers are protected against a variety of collection practices far less coercive than canceling a basic service for failure to pay for a different service. For instance, bill collectors cannot call debtors repeatedly or publish a list of debtors. 15 U.S.C. § 1692 (d). Companies are not allowed to increase their collection leverage on secured items by spreading a customer's installment payments in a way that leaves successive purchases all partially paid and non fully paid. Ohio Revised Code 1317.071.

In addition, subsistence income is protected from collection. For example, many government benefits and minimum wages are exempt from garnishment and attachment. Ohio Revised Code 2329.66.

Further, as OCC points out, toll service is one the few services for which the customer does not know the charge until it has been incurred. *OCC* at 16.

Indeed, not "unbundling consequences" would give certain providers a competitive advantage. It would also violate 253(a) by prohibiting the ability of entities to provide service to customers.

Failure to pay for a service should result in the shut-off of that service only by the

provider owed the bill. As in New York, failure to pay for a service like long distance should result in service being blocked by that long distance carrier but the customer should be able to pay a reasonable deposit and contract with a new carrier. *PULP* at 16.

**E. Comparability of Rates and Access.**

Ensuring comparable access and rates for low-income communities must be a key goal of this rulemaking.<sup>2</sup>

254(b)(3) provides the mandate, but will require careful application. As Edgemont previously pointed out, identify the “urban area” benchmark needs to reflect the reality of grossly uneven development within any particular urban area (or, depending on how urban area is defined, between the traditional urban area and the associated edge city) *Edgemont’s Initial Comments* at 10.

The National Black Caucus of State Legislators has identified the same problem and urges the use of intraurban benchmarks. They also note that inner city neighborhoods should be deemed high cost since competitors avoid them or delay serving them. *National Black Caucus* at 6.

Edgemont agrees that reasonably comparable access and rates must come to under served inner city neighborhoods in a comparable time frame. If these neighborhoods are the last to receive access to an improved telecommunication infrastructure their existing disadvantages will be magnified and reinforced, and the chance that residents of those neighborhoods will become creators of applications and content will be all but foreclosed.

The United Church of Christ proposes to address this problem by requiring that the “protected classes” (low-income customers, customers in rural, insular and high cost areas) be proportionately represented at each step of deployment. Edgemont whole-heartedly supports this approach.

Where, as here, the law mandates a particular result the “effects test” is the appropriate

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<sup>2</sup> Evidence shows that phone penetration is lowest in the inner cities. Mueller and Schement, *Six Myths of Telephone Penetration*, at 3.

tool to gauge and ensure progress.<sup>3</sup> It is objective and does not require exploring motives or stigmatizing providers found wanting. The United Church of Christ has presented a detailed and well thought out proposal for implementation. *UCC* at 13. Edgemont supports that proposal.

**F. Public Institutional Access**

As many commentators have noted, public institutional access is essential and should be solidly supported. Such institutions will become the “initial point of presence” for broadband and other advanced services in many communities. *National Black Caucus* at 13. Such institutions should provide access to the “next generation of telecommunication services”. *People for the American Way* at 7.

But as noted above, the existence of this mandate should not become an excuse for denying residential access. *People for the American Way* at iii. Many of the benefits of institutional access will be greatly magnified if these institutions (schools for instance) are linked directly to families. *APT* at 16. Here again the problem of inequality surfaces. Wealthy communities will most likely be able to achieve these synergistic effects unaided. Low income communities will need the assistance of the universal service fund.

The rules need to reflect a broad view of institutional access and its relationship to residential access. The rules must: 1) allow eligible institutions to partner with community based organizations and still qualify for assistance, 2) allow multiple layers of training to be included within eligible services, 3) create mechanisms and forums for communities to aggregate demand for services which address community priorities.

**G. Quality Service**

The Commission also needs to encourage quality by requiring that product, price and performance information be made available to customers so they will be able to make informed choices. Edgemont agrees with OCC that such information needs to be made publicly available in a uniform, comparable format in order to allow the market to favor high quality services.

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<sup>3</sup> "...access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to ..." 254 (b) (3) .



OCC at 19. The 214(e)(1)B requirement that common carriers “advertise the availability of such services and the charges therefor using media of general distribution”, provides support for this approach.

**H. The Subsidy**

Edgemont agrees with CWA that the receipt of support funds should be conditioned upon meeting quality standards and all universal service requirements. *CWA* at 6.

**I. Jurisdiction and Procedural Issues**

The Commission should encourage the States to explore ways of expanding universal service. 254(f). Given the expansion of Federal jurisdiction in this area the Commission must give States a clear signal that they can have their own policy as long as it expands service and doesn’t undermine the Federal mandates.

Finally, just as the Act provides a quick process for addressing failures to agree on interconnection, Edgemont agrees with the National Black Caucus that the rules need to provide an expedited process if there is a failure to meet initial and evolving universal service standards. *National Black Caucus* at 13. The Commission, any State Commission, or any other interested party should be able to initiate that process.

**III. Conclusion**

Edgemont appreciates the opportunity to file these *Reply Comments*. Edgemont urges the Commission to adopt policies which address the concerns and further the interests expressed in Edgemont’s *Initial Comments* and these *Reply Comments*.


Respectfully submitted,



Ellis Jacobs  
Council for the  
Edgemont Neighborhood Coalition  
LEGAL AID SOCIETY OF DAYTON  
333 West First Street, Suite 500  
Dayton, OH 45402  
(513) 228-8088, Extension 111

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Reply Comments of the Edgemont Neighborhood Coalition has been served upon each of the parties listed on the attached pages by regular U.S. Mail, postage prepaid, on May 7, 1996.

  
Ellis Jacobs  
Council for the  
Edgemont Neighborhood Coalition

The Honorable Reed E. Hundt, Chairman  
Federal Communication Commission  
1919 M Street, N.W. -- Room 814  
Washington, D.C. 20554

The Honorable Andrew c. Barrett, Commissioner  
Federal Communication Commission  
1919 M Street, N.W. -- Room 832  
Washington, D.C. 20554

The Honorable Susan Ness, Commissioner  
Federal Communication Commission  
1919 M Street, N.W. -- Room 832  
Washington, D.C. 20554

The Honorable Julia Johnson, Commission  
Florida Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

The Honorable Kenneth McClure, Vice Chairman  
Missouri Public Service Commission  
301 W. High Street, Suite 530  
Jefferson City, MO 65102

The Honorable Sharon L. Nelson, Chairman  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504-7250

The Honorable Laska Schoenfelder, Commissioner  
South Dakota Public Utilities Commission  
500 E. Capital Avenue  
Pierre, SD 57501

Martha S. Hogerty  
Public Counsel for the State of Missouri  
P.O. Box 7800  
Harry S. Truman Building, Room 250  
Jefferson City, MO 65102

Deborah Dupont, Federal Staff Chair  
Federal Communication Commission  
2000 L Street, N.W. Suite 257  
Washington, D.C. 20036

Paul E. Pederson, State Staff Chair  
Missouri Public Service Commission  
P.O. Box 360  
Truman State Office Building  
Jefferson City, MO 65102

Eileen Benner  
Idaho Public Utilities Commission  
State Capital, 500 E. Capital Avenue  
Pierre, SD 57501-5070

William Howden  
Federal Communication Commission  
2000 L Street, N.W., Suite 812  
Washington, D.C. 20036

Lorraine Kenyon  
Alaska Public Utilities Commission  
1016 West Sixth Avenue, Suite 400  
anchorage, AK 99501

Debra M. Kriete  
Pennsylvania Public Utilities Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Clara Kuehn  
Federal Communication Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Mark Long  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Gerald Gunter Building  
Tallahassee, FL 32399-0850

Samuel Loudenslager  
Arkansas Public Service Commission  
P.O. Box 400  
Little Rock, AR 72203-0400

Sandra Makeeff  
Iowa Utilities Board  
Lucas State Office Building  
Des Moines, IA 50319

Philip F. McClelland  
Pennsylvania Office of Consumer Advocate  
1425 Strawberry Square  
Harrisburg, Pennsylvania 17120

Michael A. McRae  
D.D. Office of the People's Counsel  
1133 15th Street, N.W., Suite 812  
Washington, D.C. 20036

Terry Monroe  
New York Public Service Commission  
Three Empire Plaza  
Albany, NY 12223

Andrew Multz  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Mark Nadel  
Federal Communication Commission  
1919 M Street, N.W., Room 542  
Washington, D.C. 20554

Gary Oddi  
Federal Communication Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Teresa Pitts  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, WAS 98504-7250

Jeanine Poltronieri  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

James Bradford Ramsay  
National Association of Regulatory Utility Commissioners  
1201 Constitution Avenue, N.W.  
Washington, D.C. 20423

Jonathan Reel  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Brian Roberts  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102-3298

Gary Seigel  
Federal Communication Commission  
2000 L Street, N.W., Suite 812  
Washington, D.C. 20036

Pamela Szymczak  
Federal Communication Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Whiting Thayer  
Federal Communication Commission  
2000 L Street, N.W., Suite 812  
Washington, D.C. 20036

Deborah S. Waldbaum  
Colorado Office of Consumer Counsel  
1580 Logan Street, Suite 610  
Denver, Colorado 80203

Alex Belinfante  
Federal Communication Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Larry Povich  
Federal Communication Commission  
1919 M Street, N.W.  
Washington, D.C. 20554